

# Frankfurt Kurnit Klein + Selz PC

Ronald C. Minkoff

28 Liberty Street, New York, New York 10005

T (212) 705-4837 F (347) 438-2112

rminkoff@fkks.com

April 14, 2022

## VIA ECF

Hon. Naomi Reice Buchwald  
United States District Court  
Southern District of New York  
United States Courthouse  
500 Pearl Street  
New York, NY 10007-1312

Re: Quinn, et al. v. City of New York, et al., 20-cv-2666 (NRB)

Dear Judge Buchwald:

We represent Joseph Napoli and Napoli Shkolnik LLP (collectively, "Napoli") as Special Professional Responsibility Counsel in connection with Your Honor's Show Cause Order dated March 24, 2022 [Dkt. No. 46] (the "Order"). On April 4, 2022 the Quinns filed a Notice of Appeal in the above-captioned matter [Dkt. No. 51] (the "Appeal"). We write to respectfully request that the Court stay the district court proceedings against Napoli pending the determination of the Appeal. Application denied.  
4/19/22

A stay is appropriate for several reasons. *First*, the issue for appeal, *i.e.* whether the action was properly dismissed on the pleadings, is a matter of sound debate. The application of judicial estoppel based on representations made in a prior confidential mediation is novel, as underscored by the fact that neither defendants nor the Court identified any precedent directly on point. *Second*, and relatedly, a ruling by the Circuit in favor of Mr. Napoli would have a direct bearing on the issue of sanctions, as this Court's order was premised, in part, on the potential "absence of a legal or factual basis for the current litigation." Order at 19. *Third*, no prejudice would inure to any party should the Court stay the proceedings. *Finally*, the stay would only be in effect for a short time, as Second Circuit Local Rule 31.2(b) places appeals from successful motions to dismiss on an "Expedited Appeals Calendar."

Hon. Naomi Reice Buchwald  
April 14, 2022  
Page 2

Therefore, to ensure efficiency and fairness, we respectfully request that the Court stay the proceedings contemplated by the Order until the Second Circuit has decided the appeal.

Respectfully submitted,

*/s/ Ronald C. Minkoff*

Ronald C. Minkoff

cc: All Counsel of Record (via ECF)